



United States General Accounting Office  
Washington, DC 20548

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July 9, 2002

The Honorable Scott McInnis  
Chairman, Subcommittee on Forests  
& Forest Health  
Committee on Resources  
House of Representatives

Subject: Forest Service: Scope and Methodology Used to Determine Number of Appeals and Legal Challenges of Fiscal Year 2001 Fuel Reduction Projects

Dear Mr. Chairman:

Last summer, on the basis of your Subcommittee's request, we reviewed certain issues related to efforts of the U.S. Department of Agriculture's Forest Service to reduce accumulated hazardous forest fuels. At that time, the Congress had appropriated more than \$205 million to the Forest Service for fiscal year 2001 to be used to reduce these accumulated fuels. In an effort to put as much of these newly appropriated monies on the ground as quickly as possible in fiscal year 2001, the Forest Service identified and funded those hazardous fuel reduction projects for which it had completed the necessary environmental analyses.

Concerned that appeals and litigation were delaying the implementation of these projects, your Subcommittee asked us to identify (1) the number of hazardous forest fuel reduction projects for which the Forest Service had completed the necessary environmental analyses and funded implementation in fiscal year 2001, (2) the number of these projects that had been appealed or litigated, and (3) who had appealed or litigated the project decisions.

We provided your Subcommittee with a report transmitting this information.<sup>1</sup> In summary, we reported that as of July 18, 2001, the Forest Service had completed the necessary environmental analyses to implement 1,671 hazardous fuel reduction projects in fiscal year 2001. Of those projects, subsequently 20 (about 1 percent) had been appealed, and none had been litigated. Appellants included environmental groups, such as the Forest Conservation Council, and individuals.

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<sup>1</sup>U.S. General Accounting Office, *Forest Service: Appeals and Litigation of Fuel Reduction Projects*, GAO-01-1114R (Washington, D.C.: Aug. 31, 2001).

Many areas of the nation are gripped with severe drought this fire season, making the excessive fuel build up on the national forests that we have written about for years even more dangerous. The combination of these conditions raises the potential that the 2002 fire season will be one of the worst fire seasons on record. In this context, the issue of what impact appeals and litigation have had on hazardous fuel reduction projects will likely be raised. As such, you asked us to provide you with information clarifying how we developed the data contained in our August 31, 2001, report.

In developing data for that report, we obtained from Forest Service headquarters a list of planned hazardous fuel reduction projects, by national forest, which the Forest Service had identified for implementation in fiscal year 2001. We then called each of the Forest Service's nine regional offices and asked them to identify whether any of the hazardous fuel reduction projects that were planned to be implemented in fiscal year 2001 had been appealed or litigated, and if so, the identity of the appellant or litigant.

There are a number of methodological issues that we would like to clarify. First, since the Subcommittee's concern at that time was to determine whether appeals or litigation were delaying projects that had already completed the environmental analysis phase and were to be implemented, we only obtained the appeals and litigation information that affected these projects during fiscal year 2001. We did not obtain any information on appeals and litigation that may have occurred earlier in the development of these projects. Enclosure II to our August 31, 2001, report lists the projects that were to be implemented and were appealed in fiscal year 2001, and the status of those projects as of mid-July 2001. Second, when obtaining the number of hazardous fuel reduction projects for which the Forest Service had completed the necessary environmental analyses, we did not determine the nature of the environmental analyses. That is, we did not determine which of the 1,671 hazardous fuel reduction projects the Forest Service determined were within a categorical exclusion from an environmental evaluation under the National Environmental Policy Act and which ones were not within such a categorical exclusion.<sup>2</sup> When the Forest Service determines the project qualifies for a categorical exclusion, the project is not subject to administrative appeal. Finally, because your Subcommittee asked us to provide the requested information as quickly as possible, it was agreed with the Subcommittee's staff that we would not verify the information that the Forest Service provided to us.

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As arranged with your office, unless you publicly announce its contents earlier, we plan no further distribution of this report until 2 days after the date of this report. At that time, we will send copies of this report to the Chairman and Ranking Minority Member, Subcommittee on Forests and Public Lands, Senate Committee on Energy and Natural Resources; the Ranking Minority Member, Subcommittee on Forests & Forest Health, House Committee on Resources; interested congressional

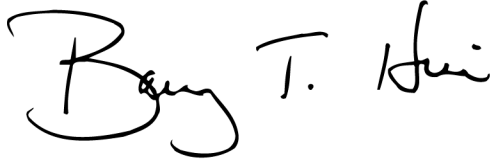
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<sup>2</sup>A categorical exclusion is a class of actions that an agency has determined has no significant environmental impact, and accordingly for which the agency does not conduct environmental analyses under the act (40 C.F.R. 1508.4).

communities; and the Chief, Forest Service. This report is also available at no charge on GAO's home page at <http://www.gao.gov>.

Please call me at (202) 512-3841 if you or your staff have any questions about this report. Key contributors to this report were Chester Janik and Marcia McWreath.

Sincerely yours,

A handwritten signature in black ink that reads "Barry T. Hill". The signature is written in a cursive style, with the first name "Barry" being more prominent and the last name "Hill" written in a simpler, more upright cursive.

Barry T. Hill  
Director, Natural Resources  
and Environment